

# MORTON S. MINSLEY

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March 6, 2017

**Via ECF**

Hon. Lorna G. Schofield  
United States District Judge  
US District Court, SDNY  
Courtroom 1106  
40 Centre Street  
New York, NY 13261

Re: Srisuwan Tangtiwatanapaibul, et. al. v. Tom & Toon, Inc., et.al  
US Dist. Ct., SDNY, Docket No. 17 Civ. 816 (LGS)

Dear Judge Schofield:

I have been retained to represent Defendants in the above referenced Civil Action. Yesterday, I entered my appearance in this action on the Docket.

I have checked on the Court docket and I see that the deadline for Defendants to answer the Complaint filed by Plaintiffs is today, March 6, 2017. I am writing to request a short two week extension of time to answer the complaint or otherwise move with respect to the Complaint.

The present case is an action pursuant to the US Fair Labor Standards Act (“FLSA”) and NY Labor Law, alleging unpaid wages and overtime and other claims. The action is filed on behalf of two individual Plaintiffs. Two additional individuals have signed and filed consents to become party plaintiffs, although no factual allegations regarding the two additional Plaintiffs are alleged in the complaint, and no amended complaint has been filed. The action names five (5) corporate defendants and three individual defendants. The five corporate defendants are all Thai restaurants located in Manhattan. However, other than conclusory allegations that the restaurants operate as one enterprise, the allegations in the complaint relate only to two of the restaurants in question. Of the three individual Defendants, one, Peter F. Chiu, is an attorney at law who is not an owner, manager, employee or in any way associated with the restaurants other than having represented the restaurant(s) in his capacity as an attorney. All of the defendants, corporate and individual alike, were allegedly served by serving the cashier in one of the restaurants.

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Based on the above, I would anticipate making a motion to dismiss the complaint with respect to some or all of the claims for relief and with respect to some of the defendants. Alternatively, perhaps in the two week interim, Plaintiffs' counsel might agree to file an amended complaint, more clearly setting forth the basis for the relief sought on behalf of all of his clients, and paring down the allegations of his complaint to those parties that are actually involved with the allegations asserted.

I request, therefore, an extension of time to March 20, 2017 to answer or move with respect to the Complaint.

No prior request for any extension of time in this matter has been made. I contacted the office of the Plaintiffs' attorney earlier today and after initially indicating their consent, they contacted me later and clarified that they were offering only a conditional agreement to a two week extension, on the ground that I waive any service or jurisdictional defenses. However, I have not been authorized by my clients to so waive these defenses, particularly in regard to Mr. Chiu who advises me that he has been improperly joined as a Defendant in this action without any basis in law or fact.

Based on the above, I respectfully request that a two week extension of time to answer or move be granted.

Thanking your Honor for your attention, I am,

Respectfully,



Morton S. Minsley

MSM: mm

cc.: John Troy, Esq.

TROY LAW, PLLC

Attorneys for Plaintiffs

VIA ECF